

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

PATRICK ROTH,

Plaintiff,

Case No. 5:19-cv-00903-G

v.

Hon. Charles B. Goodwin

SERGEANT JOHN DOE (BADGE
#1129), JANE DOE, and
OKLAHOMA CITY, a political
subdivision of the State of Oklahoma,

Defendants,

/

**EMERGENCY MOTION FOR LEAVE TO ALLOW PLAINTIFF TO
SERVE A SUBPOEANA PRIOR TO THE COMMENCEMENT OF
DISCOVERY**

NOW COMES, Plaintiff, Patrick Roth, by and through undersigned counsel, and moves this Court to allow Plaintiff to serve a subpoena prior to the commencement of discovery, and in support of his motion states as follows:

1. The Complaint (ECF #1) in this action was filed on September 27, 2019.
2. There are three Defendants in this action: Oklahoma City, Sergeant John Doe, and Jane Doe.
3. Sergeant John Doe and Jane Doe's identities are unknown to Plaintiff.

4. Plaintiff has attempted to ascertain this information by requesting it from Oklahoma City's police department, but the department has refused to divulge this information.

5. The Summons's (ECF #2) were issued on September 30, 2019. Pursuant to Fed. R. Civ. 4(m), these Summons's will expire after 90 days.

6. Without knowing the identities of the Defendants, Plaintiff certainly has no way of serving them prior to the expiration of the Summonses.

7. Plaintiff could easily learn the identities of the unknown Defendants by simply serving a Rule 45 subpoena on Defendant Oklahoma City and/or its police department. Fed. R. Civ. P. 26 does not allow such subpoenas at this stage.

WHEREFORE, Plaintiff respectfully prays that this Court enter an Order that:

- a. Plaintiff may serve a subpoena on Defendant Oklahoma City for documentation that will identify Sergeant John Doe and Jane Doe, subject to whatever protective order, if any, this Court deems necessary; and
- b. Any such other relief as appears just and proper.

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Respectfully Submitted,

EXCOLO LAW, PLLC

/s/ Solomon M. Radner

Solomon M. Radner (*pro hac vice*)

MI Bar No. P73653

Attorney for Plaintiff

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Dated: October 4, 2019

CERTIFICATE OF SERVICE

Undersigned hereby states that on October 4, 2019, he caused the foregoing document to be filed electronically with the United States District Court and that a copy of said document was sent to all counsel of record through the Court's CM/ECF electronic filing system.

/s/ Solomon M. Radner